IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 1251/2006
(Moti Singh & Ors. Vs. State of Rajasthan)

Date of Order : 04/10/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. B.S.Deora for the petitioners.
Mr. Ashok Upadhyay, public prosecutor for the State.

BY THE COURT:-

This criminal misc. petition under Section 482 Cr.P.C. is directed against the order dated 23.8.2006 passed by Sessions Judge, Sirohi (for short 'the revisional court' hereinafter) whereby the revision petition filed by the petitioners against the order dated 3.3.2006 passed by Judicial Magistrate, Sheoganj (for short 'the trial court' hereinafter) was dismissed.

I have heard learned counsel for the petitioner and public prosecutor for the State. Carefully gone through the orders passed by the trial court and the revisional court.

By order dated 3.3.2006, the trial court took the cognizance of the offences under Sections 147 and 323 IPC against the present petitioners.

It is contended by learned counsel for the petitioners that the witnesses who witnessed the occurrence stated that there were three persons who were involved in the occurrence, whereas the trial court took the cognizance of offence and issued process against five persons who are the present petitioners.

From the perusal of the challan papers as also the order passed by the revisional court, it is clear that apart from the injured persons who suffered the injuries alleged to have been at the hands of the present petitioners, there are number of other persons also who supported the prosecution case namely Babu Singh S/o Jaisingh, Ratansingh S/o Babu Singh, Vairsingh S/o Babusingh, Jagdish Singh S/o Devisingh, Babu Singh S/o Pratapsingh, Peersingh, Roopsingh and Gumansingh. Babusingh alleged to have suffered three injuries on his person. Both the courts below concurrently found that there is sufficient material and evidence on the basis of which it can safely be said that there is ground to proceed against the present petitioners for the offences noticed above. In my view, at the stage of cognizance only prima-facie case is to be found.

In Jagdish Ram Vs. State of Rajasthan, AIR 2004 SC 1734, Hon'ble Supreme Court held that at the stage of taking cognizance, the Magistrate has only to decide whether sufficient ground exists or not for further proceeding in the matter. It is well settled that notwithstanding the opinion of the police, a

Magistrate is empowered to take cognizance if the material on record makes out a case for the said purpose. The Apex Court further held that investigation is the exclusive domain of the police. The taking of cognizance of the offence is an area exclusively within the domain of a Magistrate. At this stage, the Magistrate has to be satisfied whether there is sufficient ground for proceeding and not whether there is sufficient ground for conviction. Whether the evidence is adequate for supporting the conviction, can be determined only at the trial and not at the stage of inquiry. At the stage of issuing the process to the accused, the Magistrate is not required to record reasons.

Keeping in view the decision of Hon'ble Supreme Court in Jagdish Ram Vs. State of Rajasthan (supra) and the fact that both the courts below concurrently came to the conclusion that there is ground to proceed against the present petitioners, it cannot be said that the orders impugned would result in serious miscarriage of justice or abuse of process of any Court warranting interference in the inherent jurisdiction.

The petition has no force and it is, therefore, dismissed.

(H.R.PANWAR),J.

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